

ORDINANCE NO. _____

1 AN ORDINANCE amending Section 8.24.150 of the Lincoln Municipal Code
2 relating to variances of the Noise Control Ordinance to provide that the City Council may, by
3 resolution, establish and revise the fees charged by the City for noise variances, and repealing
4 Section 8.24.150 of the Lincoln Municipal Code as hitherto existing.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That Section 8.24.150 of the Lincoln Municipal Code be amended to
7 read as follows:

8 **8.24.150 Variances.**

9 (a) The health officer shall have the authority to grant an initial variance to the strict
10 application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person
11 seeking such a variance shall file an application with the health officer and shall submit a permit
12 fee of ~~\$115.00~~ as the City Council may, by resolution, from time to time establish or revise. The
13 application shall contain the information which demonstrates that bringing the source of sound or
14 activity for which the variance is sought into compliance with this ordinance would constitute an
15 unreasonable hardship on the applicant, on the community, or on other persons.

16 (b) The health officer shall have the authority to grant an extension to any variance.
17 Any person seeking such an extension shall file an application with the health officer. Notice of
18 an application for an extension shall be posted by a sign placed in a conspicuous place on or near
19 the property upon which action is pending. No extension shall be granted for a period of two
20 days from and after posting of the property.

1 (c) Any individual who claims to be adversely affected by allowance of any requested
2 extension of a variance may, prior to the end of the two-day period after posting of the property,
3 file a statement with the health officer containing any information to support the claim. If the
4 health officer finds that a sufficient controversy exists regarding an application, a public hearing
5 shall be held. All such hearings shall be held within five days after the period for filing claims
6 under this subsection has ended.

7 In determining whether to grant or deny any application, the health officer shall balance
8 the hardship to the applicant, the community, and other persons of not granting the variance or
9 extension against the adverse impact to the health, safety, and welfare of persons affected, the
10 adverse impact on property affected, and any other adverse impacts of granting the variance or
11 extension. Applicants for variances or extensions and persons contesting extensions may be
12 required to submit any information the health officer may reasonably require. In granting or
13 denying an application, the health officer shall place on public file a copy of the decision and the
14 reasons for denying or granting the variance or extension and the criteria to be considered in
15 deciding whether to grant variances and extensions.

16 Variances or extensions shall be granted by notice to the applicant containing all
17 necessary conditions, including a time limit on the permitted activity. The variance or extension
18 shall not become effective until all conditions are agreed to by the applicant. Noncompliance
19 with any condition of the variance or extension shall terminate such variance or extension and
20 subject the applicant to those provisions of this ordinance regulating the source of sound or
21 activity for which the variance or extension was granted.

22 The health officer may issue guidelines defining the procedures to be followed in
23 applying for a variance or extension and the criteria to be considered in deciding whether to grant
24 variances and extensions.

25 (d) Any person who is aggrieved by a decision or order of the health officer under this
26 ordinance may appeal such decision or order to the district court as provided by law.

27 Section 2. Any and all fees in effect on August 1, 2014, under the section
28 amended by this ordinance shall remain in effect until such time as the City Council passes a
29 resolution establishing or revising said fees as authorized herein.

1 Section 3. That Section 8.24.150 of the Lincoln Municipal Code as hitherto
2 existing be and the same is hereby repealed.

3 Section 4. That this ordinance shall take effect and be in force from and after
4 passage and publication in one issue of a daily or weekly newspaper of general circulation in the
5 City, according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2014:

Mayor